

Friday, November 19, 2010

The latest edition of the ACR newsletter is available below.

Washington Roundup

The lame duck session of Congress convened on Monday, November 15. This week, the Senate passed a one-month extension of the Medicare physician payment system, known as the "Doc Fix," and agreed to vote on The FDA Food Safety Modernization Act (S. 510) when they return. Congress will recess next week for Thanksgiving, so any legislative action on taxes will not begin until Congress returns on Monday, November 29.

[Bush Tax Cuts and IRA Charitable Rollover](#)

The predictions vary on Congress taking action on pending tax issues in December. We thought the chances were better than even for a one-year extension of the Bush Tax Cuts with no income caps and a version of Tax Extenders, including the IRA charitable rollover, both without offsets. However, earlier this week, a meeting between the President and Congressional leaders to talk about taxes was abruptly canceled and will not occur until November 30, thereby lessening the chances of tackling the Bush Tax Cuts in a lame duck. If the issue of the tax cuts is not resolved by December 10 when the lame duck is scheduled to end, we expect an extension of that lame duck – even if there is no success in dealing with the Bush tax cuts.

[Continuing Resolution](#)

The must-do item for the lame duck session of Congress is funding the government, because the FY2011 Continuing Resolution expires on December 3. In addition, the current extension of unemployment benefits expires at the end of this month. This item, as well as a longer-term "Doc Fix" may be included on any Continuing Resolution that passes.

[Deficit Commission](#)

On December 1, the President's bipartisan National Commission on Fiscal Responsibility and Reform is due to issue its final report recommending tax and spending changes to balance the budget (excluding interest payments on the debt) by 2015. The final report will require the approval of at least 14 of the commission's 18 members, which may prove difficult. The commission is scheduled to hold meetings on November 30 and issue its findings the following day. Given that the panel's co-chairs have already released some of their preliminary findings (see below for articles), we think there could be a delay in releasing the final report.

Consider This...

Top Ten List: What the Elections Mean for the Nonprofit Sector

Our top ten list of what this month's elections mean for the nonprofit sector:

1. This year's freshman class is one of the largest in history. With at least 13 new senators and over 70 new representatives, there is a big opportunity for nonprofits to get in early and educate members about what we do.
2. Outgoing Ways and Means Chairman Sander Levin (D-MI) and presumed incoming Chairman Dave Camp (R-MI) are both very supportive of the nonprofit community, perhaps because they both hail from Michigan, a state with a rich history of effective nonprofits and foundations.
Rep. Camp was instrumental in adding the IRA Charitable Rollover provision into the Pension Protection Act of 2006, allowing seniors to donate money from their individual retirement accounts to charity without being taxed. He is also pushing to get the provision renewed before the end of 2010. Chairman Levin was very supportive of a provision to allow nonprofits to invest onshore without triggering UBIT taxes.
3. But, potentially rougher waters await the Ways and Means Oversight Subcommittee. Rep. Charles Boustany Jr. (R-LA) is expected to become chairman of the Subcommittee on Oversight. In July, he spearheaded a hearing on "The Immediate Need for Charitable Assistance in the Gulf Coast Region." Rep. Boustany has criticized the nonprofit community - and most particularly foundations - for doing a poor job responding to immediate human needs resulting from the Gulf oil spill.
4. Senator Hatch brings a different perspective to Senate Finance Committee Leadership. Senator Orrin Hatch (R-UT) is due to take over as the senior Republican on the Senate Finance Committee. Senators Hatch and Chairman Max Baucus (D-MT) have a solid working relationship from their years spent toiling on international tax issues.

The soon-to-be former senior Republican on Finance, Senator Charles Grassley (R-IA) has been the Senate's leading nonprofit watchdog, leading a steady stream of investigations into alleged nonprofit abuses including examining nonprofit hospitals, university endowments, highly-paid charity executives, and churches with lavish expenses. To date, Senator Hatch has shown little appetite for stepping into that role.
5. Expect a backlash against advocacy intended to affect a political campaign by nonprofits. The activities of some national nonprofits during this election season have raised strong questions about the line between legitimate advocacy and disallowed electioneering. The nonprofit sector could face increased scrutiny as it engages in advocacy. And, members of Congress may not see the distinction.
6. Expect Rep. Betty McCollum's efforts to enact nonprofit legislation to continue. Rep. McCollum's (D-MN) bill, Nonprofit Sector and Community Solutions Act (H.R. 5533), would move to integrate the nonprofit sector into the federal policymaking process by establishing formal structures in Congress and federal administrative agencies focused on the success of nonprofits. Expect Rep. McCollum to reintroduce her bill in the 112th Congress.

7. Moderates from both parties were thrown out of office throughout this election cycle. Anticipate a more polarized House and Senate in the 112th Congress.
8. Moderate Republican members up for re-election in 2012 are looking over their shoulders. Looking ahead to 2012, the remaining moderate members of Congress may begin moving further toward the political extremes to ensure they can win primary challenges from within their party. This is particularly true for moderate Republicans looking to stave-off challenges from the Tea Party and far right. Senators Olympia Snowe from Maine and Scott Brown from Massachusetts could fall into this camp.
9. Democrats up in 2012 from red states started campaigning as soon as the polls closed last Tuesday.
We expect high anxiety among the 23 Democratic Senators up for re-election in 2012, especially Senators from more Republican states, including: Sen. Kent Conrad (D-ND), Sen. Claire McCaskill (D-MO), Sen. Ben Nelson (D-NE), Sen. Jon Tester (D-MT), and Sen. Jim Webb (D-VA).
10. Issues for 2012:
 - Blurring the lines between for-profit and nonprofit organizations. The healthcare bill highlights this issue because the new health insurance exchanges in that bill will be nonprofit with a for-profit role.
 - Will a new community benefit standard for hospitals bleed over to other nonprofits? How about a public good standard?
 - Expect the pressure on Congress by interest groups to create a hierarchy of charities to grow. Will Congress agree to throw the "SOB's" (symphonies, operas and ballets) overboard in favor of traditional human services organizations?

Making Headlines

Here are recent headlines you may find interesting:

Federal

This week, co-chairmen of the President's Deficit Commission released options under their consideration to the public and it has sparked discussion.

- Proposal:
http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/CoChair_Draft.pdf
- 11/12 Deficit Commission Targets Charitable Deduction, Chronicle of Philanthropy
<http://philanthropy.com/blogs/government-and-politics/deficit-commission-targets-charitable-deduction/27632>
- 11/15 Left, Right and Wrong on Taxes, New York Times
<http://www.nytimes.com/2010/11/16/opinion/16hubbard.html>
An op-ed by Glenn Hubbard, Dean of Columbia Business School and former Chairman of the Council of Economic Advisers under President George W. Bush, praises the report as an important first step in the national debt.

11/10 Estate Tax Change Leaves Charitable Gifts in Limbo, New York Times

<http://www.nytimes.com/2010/11/11/giving/11TAX.html>

The Times reports on how uncertainty about tax rates for next year are prompting donors to delay gifts until tax rates are set and nonprofit organizations are altering their plans to facilitate giving.

State/Local

11/17 Unfair Burden: Tax-exempt Properties and Public Services, New Jersey Times

<http://www.nj.com/opinion/times/oped/index.ssf?/base/news-1/128997630893890.xml&coll=5>

In an op-ed about municipalities struggling with providing services to tax-exempt organizations such as universities and hospitals, a Rutgers University professor proposes that counties, towns and cities charge fees for emergency, security, educational and social services.

11/15 Providence Needs Tax Alliance with Colleges, Hospitals, Report Says, Providence Journal

http://www.projo.com/economy/PROVIDENCE_TAX_EXEMPTS_11-15-10_LFK4MH1_v65.36d64c0.html

The Providence Journal reports on a local commission set to release a report proposing that the city's four private colleges (Brown University, Johnson & Wales University, Providence College and the Rhode Island School of Design) compensate the municipality some \$48 million over 20 years for years of lost property-tax revenue, among other revenue raising schemes.

Social Innovation Fund

11/12 Nonprofit Fund's Grant Process Is Audited for Possible Conflicts, New York Times

http://www.nytimes.com/2010/11/13/business/13charity.html?_r=2&scp=1&sq=strom&st=nyt

The Times reports that the inspector general with oversight of the federal government's Corporation for National and Community Service is looking into the grant process of the Social Innovation Fund, a \$50 million program meant to expand promising nonprofits.

Giving Pledge

11/12 Pledge to Give Away Fortunes Stirs Debate, New York Times

<http://www.nytimes.com/2010/11/11/giving/11PLEDGE.html?emc=tnt&tntemail1=y>

Stephanie Strom reports on the debate about the wealthy and their giving habits sparked by the Giving Pledge.

Studies/Reports

11/19 Foundation Giving Likely to Increase in 2011, Survey Finds, PND News

<http://foundationcenter.org/pnd/news/story.jhtml?id=315200035>

Report:

http://foundationcenter.org/gainknowledge/research/pdf/researchadvisory_economy_201011.pdf

A new Foundation Center survey of approximately 5,000 large and mid-size U.S. independent, corporate, and community foundations indicates modest growth in foundation giving in 2011 and stabilized foundation operations.

11/5 A Growing Number of Americans Don't Give to Charity, Chronicle of Philanthropy

http://philanthropy.com/blogs/prospecting/a-growing-number-americans-dont-give-to-charity-poll-finds/27815?sid=&utm_source=&utm_medium=en

A new Harris interactive poll

(<http://www.harrisinteractive.com/NewsRoom/HarrisPolls/tabid/447/mid/1508/articleId/611/ctl/ReadCustom%20Default/Default.aspx>) finds that the giving patterns of Americans have changed as a result of the economy with more people not making any donations but volunteering.

A new study from Bank of America Merrill Lynch in partnership with the Center on Philanthropy at Indiana University finds that the wealthiest Americans continued to support charitable organizations in 2009 at levels consistent with those seen in 2005 and 2007 (although a decrease from 2008). It has generated debate about giving motivations and patterns of the wealthy.

- 11/9 Recession's Casualty: Giving, CNN Money
http://money.cnn.com/2010/11/09/pf/charitable_donations_drop/
- 11/9 Giving by the Rich: Altruism or Just a Tax Write-Off?, WSJ
<http://blogs.wsj.com/wealth/2010/11/09/giving-by-the-rich-altruism-or-just-a-tax-write-off/>
- 11/10 The Rich are Different from You and Me. They Give More, New York Times
<http://www.nytimes.com/2010/11/11/giving/11CHOICE.html>
- 11/10 As Donors Retrench, Challenges for Universities, New York Times
<http://www.nytimes.com/2010/11/11/giving/11UNIV.html>

11/10 Religious Groups Fared Better Than Other Charities in Recession, Chronicle of Philanthropy
http://philanthropy.com/article/Religious-Groups-Fared-Better/125338/?sid=&utm_source=&utm_medium=en

Report: <http://www.ecfa.org/Content/2010-ECFA-Annual-State-of-Giving-Report>

According to a new report by the Evangelical Council for Financial Accountability (ECFA) giving to religious organizations stayed strong during the U.S. recession, totaling \$12.10 billion last year, just a 0.1 percent decline from the pre-recession level of \$12.11 billion two years earlier.

Other

11/10 Foundations with a Limited Life, New York Times

http://www.nytimes.com/2010/11/11/giving/11UNDO.html?_r=1

The Times reports on reasons why more foundations are choosing to spend down signaling a shift from historical practices. The reasons cited generally relate to the passage of the original donor and concern that his donor intent or the heavy administrative costs associated with running a foundation.

UPCOMING EVENT

[Philanthropic Strategies for Helping America's Veterans](#)

The Philanthropy Roundtable and the Council on Foundations will host a conference to highlight ways that donors can help the veterans of America's current conflicts recover from the wounds of war, become leaders in a variety of endeavors, and continue to serve their country as private citizens.

December 7-8, 2010

Arlington, Virginia

For more information or to register visit: www.philanthropyroundtable.org

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